

RESPONSE UNDER 37 C.F.R. § 1.111  
USSN: 09/593,158

**REMARKS**

Claims 1-7 are all the claims pending in the application.

**PRIOR ART REJECTIONS**

The Examiner has rejected claims 1 and 5 under 35 U.S.C. § 103(a) as being unpatentable over Trompower et al. in view of Reed et al. and Kanbara et al. Applicant traverses these rejections because the cited references fail to disclose or suggest all of the claim limitations. Specifically, the references fail to disclose at least the following limitations:

**Claim 1:**

*an input means for inputting said data transmission rate;*  
*a communication rate regulating means for regulating said data transmission rate, on the basis of said residual amount of battery power.*

**Claim 5:**

detecting a residual amount of battery power of said mobile terminal,  
*when said data transmission rate is inputted into said mobile terminal;*

*regulating said data transmission rate, on the basis of said residual amount of battery power;*

The Examiner concedes that Trompower et al. fails to disclose an input means for inputting a data transmission rate and regulating a data transmission rate on the basis of the residual amount of battery power. In an attempt to overcome these deficiencies, the Examiner cites to Reed et al. and Kanbara et al.

RESPONSE UNDER 37 C.F.R. § 1.111  
USSN: 09/593,158

First, the Examiner asserts that Reed teaches inputting resource sensitivity indicators for a higher data transmission rate (col. 7, lines 1-6) and regulating a data transmission rate on the basis of a residual amount of battery power (col. 7, lines 1-5 and 8-10). However, neither of the passages discloses or suggests a mobile terminal that has an input means for inputting a data transmission rate or regulating a data transmission rate on the basis of the residual amount of battery power. The passages are shown below:

Not all a resource sensitivity indicators are a result of measuring and comparing system parameters. Other methods of determining resource sensitivity indicators include inputting them directly into the communications system. For example, the subscriber can input a resource sensitivity *by selecting a level of communications service offered by the communications system operator.* If one subscriber pays a premium for service, she may be indicating a resource sensitivity indicator for a higher data rate or higher voice quality compared to users that are not paying a premium. Other users may indicate a resource sensitivity for longer battery life, wherein they are willing to reduce their data rate because their battery will last longer at the lower rate. *These types of system resource sensitivities may be indicated and stored in a database, such as database 44, when the user subscribes to the communications service.* Col. 6, line 66 - col. 7, line 13. (emphasis added)

Rather than disclosing a mobile terminal with an input means for inputting a data transmission rate, Reed et al. discloses that the user can select a level of service from the system operator. The service level information is stored at the base station. There is no disclosure of a means to input a data transmission rate into a mobile unit.

Likewise, Reed et al. fails to disclose a mobile terminal that regulates a data transmission rate on the basis of a residual amount of battery power. Again, Reed et al. simply discloses that a user may select a level of service that reduces a data transmission rate to provide the user with a

RESPONSE UNDER 37 C.F.R. § 1.111  
USSN: 09/593,158

longer battery life. There is no disclosure transmission rates that are based on the residual battery power in the mobile terminal. Therefore, for at least these reasons, Reed et al. fails to make up for the admitted deficiencies of Trompower et al.

Next, the Examiner asserts that Kanbara et al. teaches inputting a data transmission rate (col. 3, lines 39-43). However, this passage does not disclose or suggest a mobile terminal that has an input means for inputting a data transmission rate. The passage (and preceding passage) is shown below:

IF signal is orthogonal-demodulated in a CDMA signal processing section 6. In this section 6, the orthogonal-demodulated signal is subjected to reverse spread processing using PN code and *converted to the predetermined data format in accordance with a data rate*.

The result of this conversion is inputted to a voice code processing section 7 as a reception data. The data of the above described reception data, which shows the data rate is inputted to the control section 40 as *the reception data rate*.

The voice code processing section 7 expands the reception data in accordance with the *reception data rate* outputted from the control section 40. The output of the voice code processing section 7 is inputted to a PCM code processing section 8. Col. 3, lines 35-49. (emphasis added)

Kanbara et al. discloses that data rate as a transmission rate is provided at the control section (see col. 4, lines 14-16). There is no disclosure of a means to input a data transmission rate into a mobile unit. Further, Kanbara et al. does not disclose any relationship between a data transmission rate and the residual amount of battery power, or means for regulating a data transmission rate on the basis of the residual amount of battery power. Therefore, for at least these reasons, Kanbara et al. fails to make up for the admitted deficiencies of Trompower et al.

RESPONSE UNDER 37 C.F.R. § 1.111  
USSN: 09/593,158

The Examiner has rejected claim 4 under 35 U.S.C. § 103(a) as being unpatentable over Trompower et al. in view of Reed et al. Applicant traverses this rejection because the cited references fail to disclose or suggest all of the claim limitations. Specifically, the references fail to disclose at least the following limitations:

Claim 4:

a plurality of mobile terminals for requesting said call services, by ***deciding each transmission data rate*** of an upward signal toward said base station, ***on the basis of each residual battery power*** and each transmission power of a downward signal from said base station.

As mentioned above, the Examiner concedes that Trompower et al. fails to disclose deciding a transmission rate on the basis of the residual battery power. The Examiner asserts that Reed et al. makes up for this deficiency. However, as mentioned above, Reed et al. fails to disclose or suggest a mobile terminal that regulates a data transmission rate on the basis of a residual amount of battery power. Reed et al. simply discloses that a user may select a level of service that reduces a data transmission rate to provide the user with a longer battery life. There is no disclosure transmission rates that are based on the residual battery power in the mobile terminal. Therefore, for at least these reasons, Reed et al. fails to make up for the admitted deficiencies of Trompower et al.

The Examiner has rejected claims 2 and 6 under 35 U.S.C. § 103(a) as being unpatentable over Trompower et al. in view of Reed et al., Kanbara et al. and Hayashi. Applicant traverses these rejections because the cited references fail to disclose or suggest all of the claim limitations. These claims depend from claims 1 and 5, respectively. Therefore, they should be

RESPONSE UNDER 37 C.F.R. § 1.111  
USSN: 09/593,158

allowable at least based on their dependence from claims 1 and 5 for the same reasons described above. In addition, Applicant incorporates by reference the arguments relating to Hayashi in the Response filed on October 30, 2003.

The Examiner has rejected claims 3 and 7 under 35 U.S.C. § 103(a) as being unpatentable over Trompower et al. in view of Reed et al., Kanbara et al., Hayashi and Tiedemann, Jr. et al. Applicant traverses these rejections because the cited references fail to disclose or suggest all of the claim limitations. These claims depend from claims 1/2 and 5/6, respectively. Therefore, they should be allowable at least based on their dependence from claims 1 and 5 for the same reasons described above. In addition, Applicant incorporates by reference the arguments relating to Hayashi and Tiedemann, Jr. et al. in the Response filed on October 30, 2003.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

RESPONSE UNDER 37 C.F.R. § 1.111  
USSN: 09/593,158

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



Carl J. Pellegrini  
Registration No. 40,766

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE  
**23373**  
CUSTOMER NUMBER

Date: September 3, 2004

Attorney Docket No.: Q59650